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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,168	06/10/2002	Heinz Kern	306.41102 X00	4379

20457 7590 06/21/2004

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 06/21/2004

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/048,168
Filing Date: June 10, 2002
Appellant(s): KERN, HEINZ

Alan E. Shiavelli
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 29, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 2 – 6 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because claims 2, 5 and 6 depend on claim 3 and claim 2 recites the limitations of claims 5 and 6 in the alternative. It is unclear how the limitations of claim 2 are equivalents and yet, in claims 5 and 6, patentably distinct.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,651,254	Brede et al.	3 – 1987
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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by US Patent No. 4,651,254 to Brede et al.
2. Brede et al disclose the invention as claimed. Brede et al disclose: (claim 3) pyrotechnic primer **13** for igniting propellant powder **16**, the primer **13** having an ignition element **41** and flat coils **3** in which the energy required is transferred by electromagnetic means – beginning at col. 3, line 30 – the ignition element **41** and the coils **3** being situated on a common, flat, consumable support material – beginning at col. 1, line 57, the entire support material consisting of combustible or consumable materials – col. 4, lines 9 – 11, producing a three-dimensional cylindrical coil – best seen in Figs. 3 – 5, by laying conductor ends being in one plane on top of other ends and making a contact between them, with remaining ends of the circuit traces forming the connection surfaces of the element **41** – as set forth at col. 2, line 14; and (claim 4) the coil being copper – set forth at col. 1, line 61. Further re – claim 3, lines 7 and 8, “is produced by

Art Unit: 3644

providing... ..rolling... ..laying...”, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

3. Re – claim 4, line 3, “by screen-printing”, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Claim Rejections - 35 USC § 103

4. Claims 2, 5 and 6 are rejected under 35 U.S.C. § 103 as being unpatentable over Brede et al.

5. Brede et al disclose the invention substantially as claimed, as applied to claims 3 and 4 above.

6. Re – claims 2, 5 and 6, Brede et al does not explicitly disclose the entire support material consisting of paper or nitro-cellulose. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use paper or nitro-cellulose, since it was known in the both the explosive and circuit board arts that paper and nitro-cellulose materials are non-conductive and flammable, i.e., combustible and consumable materials. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use any such flammable material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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(11) Response to Argument

Applicant's arguments included within the Appeal Brief have been fully considered but they are not persuasive.

Applicant argues that the manner in which the three-dimensional cylindrical coil is produced, i.e., by providing conductive tracks on the support material, rolling the support material to form a cylinder, and laying opposed conductor ends of the coil one on top of the other and making contact between them, is not disclosed. Examiner asserts that the method is disclosed, however, not germane to the patentability of the claimed invention. The only difference appears to be that Brede et al. fold the support material to form the cylindrical coil instead of rolling it.

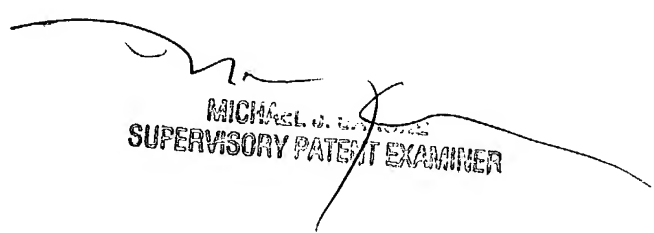
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Bret Hayes
June 10, 2004

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